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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,854	11/12/2003	Thomas L. Stachura	42390P7040C	8648

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EXAMINER

NGUYEN, THU HA T

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,854

Applicant(s)

STACHURA ET AL.

Examiner

Thu Ha T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 02/17/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims **31-67** are presented for examination.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

3. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

4. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 31, 34-46, 53-57, 59-63, and 66-67 are rejected under the judicially created doctrine of double patenting over claims 1, 3, 6, 8-9, 11, 15, 17, 29-30, 32-33, 35, and 40 of U. S. Patent No. 6,671,722 owned by the same inventor and/or assignee.

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Although the conflicting claims are not identical, they are not patentably distinct from each other because of the reasons given below.

6. Regarding to claims 31, 39, 45, 56, and 61, claims 1, 17 and 45 of U.S. Patent No. 6,671,722 recited all limitations in claims 31, 39, 45, 56, and 61 (see col. 10, lines 12-18, col. 11, lines 20-32, col. 13, lines 17-col. 14, lines 13). The claim invention in the instant application is fully disclosed in the patent and it is **broader** than the claimed^d invention in the patent. No new invention or new improvement is being claimed in the instant application. Applicants are now attempting **to claim broadly that which had been previously described in more detail in the claims of the patent (In re Van Ornum, 214 USPQ 761 CCPA 1982).**

7. Regarding to claims 34, 35, 40- 41 and 66, claims 1, and 11 of the above patent recites all limitations in claims 34-35, 40-41 and 66 (col. 10, lines 7-11, col. 11, lines 1-3).

8. Regarding to claims 36, 42, 53-54, and 59, claims 3, 33, and 35 of the above patent recites all limitations in claims 36, 42, 53-54 and 59 (col. 10, lines 33-35, col. 12, lines 49-53, lines 58-60).

9. Regarding to claims 37 and 43, claim 40 of the above patent recites all limitations in claims 37 and 43 (col. 13, lines 9-13).

10. Regarding to claims 38 and 44, claims 20 and 32 of the above patent recites all limitations in claims 38 and 44 (col. 11, lines 47-50, col. 12, lines 45-47).

11. Regarding to claims 46-47 and 57, claim 29 of the above patent recites all limitations in claims 46-47 and 57 (col. 12, lines 22-30).

12. Regarding to claims 62-63, claims 6 and 8 of the above patent recites all limitations in claims 62-63 (col. 10, lines 44-49, lines 53-57).

13. Regarding to claim 67, claim 9 of the above patent recites all limitations in claim 67 (col. 10, lines 58-63).

14. Each of the patent claims is narrower than the claims in the instant application. It would have been obvious to one of ordinary skill in the art at the time the invention was made to omit elements when the remaining elements perform as before. A person of ordinary skill could have arrived at the present claims by omitting the details of the patented claims. See *In re Karlson* (CCPA) 136 USPQ 184, decided January 16, 1963 ("Omission of element and its function in combination is obvious expedient if remaining elements perform same function as before").

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

16. Claims 31-36, 38-42, 44-48, 51, 53-57, 59-64, and 66 are rejected under 35 U.S.C. § 102(e) as being anticipated by **Spencer** U.S. Patent No. **6,253,243**.

17. As to claim 31, **Spencer** teaches the invention as claimed, including a method comprising:

accessing a packet template in a memory, the packet template having at least one static field (col. 6, line 55-col. 7, line 41, col. 7, line 65-col. 9, line 3); and

in response to an indication of an event, generating a packet on an integrated circuit, the packet based on the packet template (col. 6, lines 50-65, col. 7, line 42-col. 9, line 3).

18. As to claim 32, **Spencer** teaches the invention as claimed, additionally comprising transmitting the packet to a communication controller for transmission over a shared medium (figure 4, element 414, col. 3, lines 1-10, col. 6, lines 29-31).

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19. As to claim 33, **Spencer** teaches the invention as claimed, additionally comprising generating the packet template in response to receiving data to be used as the packet template (col. 6, lines 50-65, col. 7, line 42-col. 9, line 3).

20. As to claim 34, **Spencer** teaches the invention as claimed, wherein the packet template includes at least two protocol layers, each of the at least two protocol layers including at least two static fields (col. 6, line 59-col. 7, line 41, col. 8, lines 5-16).

21. As to claim 35, **Spencer** teaches the invention as claimed, wherein one of the at least two protocol layers includes an SNMP (Simple Network Management Protocol) layer (figure 5, col. 3, lines 1-10, col. 6, lines 50-65).

22. As to claim 36, **Spencer** teaches the invention as claimed, wherein the generated packet includes a SNMP trap PDU (protocol data unit) (col. 3, lines 1-10, col. 6, lines 50-65).

23. As to claim 38, **Spencer** teaches the invention as claimed, wherein said generating the packet comprises inserting one or more non-static data into the packet (col. 6, lines 50-65, col. 7, line 42-col. 9, line 3).

24. As to claim 39, **Spencer** teaches the invention as claimed, including a method comprising:

receiving data to be used to create a packet template (col. 6, lines 50-65);
generating the packet template, the packet template including at least one static field (col. 6, lines 50-65, col. 7, line 42-col. 9, line 3);
storing the packet template in a memory (col. 6, lines 50-65, figure 4, element 422);
receiving an indication of an event (col. 3, lines 1-8); and
substantially independently of a processor, generating, on an integrated circuit, a packet based on the packet template (col. 6, lines 50-65, col. 7, line 42-col. 9, line 3).

25. As to claim 45, **Spencer** teaches the invention as claimed, including an apparatus comprising:

a memory to store at least one packet template, the at least one packet template having at least one static field (col. 6, line 55-col. 7, line 41, col. 7, line 65-col. 9, line 3);
and

a packet generator to generate, on an integrated circuit, and in response to an indication of an event, a packet based on one of the at least one packet template (col. 6, lines 50-65, col. 7, line 42-col. 9, line 3).

26. As to claim 46, **Spencer** teaches the invention as claimed, additionally comprising an event processor to receive an indication of one or more events, and to notify the packet generator of the one or more events (figure 4, elements 141, 420, col. 6, lines 24-65).

27. As to claim 47, **Spencer** teaches the invention as claimed, wherein one of the one or more events includes a software-generated event from a CPU (central processing unit) (figures 2, 4, col. 6, lines 24-34).

28. As to claim 48, **Spencer** teaches the invention as claimed, wherein one of the one or more events include an external event (figures 2, 4, col. 5, lines 28-41, col. 6, lines 24-34).

29. As to claim 51, **Spencer** teaches the invention as claimed, additionally including a bus control module to receive at least one packet template from a CPU (central processing unit) (figure 4).

30. As to claim 54, **Spencer** teaches the invention as claimed, wherein the SNMP trap PDU comprises a UDP (User Datagram Protocol) packet portion (col. 3, lines 1-10, col. 6, lines 50-65, col. 16, lines 55-62).

31. As to claim 55, **Spencer** teaches the packet consists of UDP trap information (col. 16, lines 57-62). However, **Spencer** does not explicitly teach the complete checksum is stored in the UDP packet portion. This feature is deemed to be inherent to Spencer system because UDP, similar to TCP, is a communication message

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protocol that sends data units from one network element to another. UDP consists of a checksum that has the capability to verify if the data arrive intact.

32. As to claim 56, **Spencer** teaches the invention as claimed, including a system comprising:

a network interface card having a communications controller (figure 4, element 414); and

an integrated circuit coupled to the network interface card (figure 4), the integrated circuit including:

a memory to store at least one packet template, the at least one packet template having at least one static field (col. 6, line 55-col. 7, line 41, col. 7, line 65-col. 9, line 3); and

a packet generator to generate, on an integrated circuit, and in response to an indication of an event, a packet based on one of the at least one packet template (col. 6, lines 50-65, col. 7, line 42-col. 9, line 3).

33. As to claim 57, **Spencer** teaches the invention as claimed, additionally comprising an event processor to receive an indication of one or more events, and to notify the packet generator of the one or more events (figure 4, elements 141, 420, col. 6, lines 24-65).

34. As to claim 59, **Spencer** teaches the invention as claimed, wherein the packet comprises an SNMP (Simple Network Management Protocol) trap PDU (protocol data unit) (col. 3, lines 1-10, col. 6, lines 50-65, col. 16, lines 55-62).

35. As to claim 60, **Spencer** teaches the invention as claimed, wherein the SNMP trap PDU comprises a UDP (User Datagram Protocol) packet portion (col. 3, lines 1-10, col. 6, lines 50-65, col. 16, lines 55-62).

36. As to claim 61, **Spencer** teaches the invention as claimed, including a method comprising:

in response to an indication of an event, generating a packet on an integrated circuit, the packet based on a packet template (col. 6, lines 50-65, col. 7, line 42-col. 9, line 3); and

transmitting the packet to a communication controller for transmission over a shared medium (figure 4, col. 3, lines 1-10, col. 6, lines 24-65).

37. As to claim 62, **Spencer** teaches the invention as claimed, wherein said indication of an event comprises receiving an event code and event data (col. 2, lines 36-62- Note that Spencer disclosed the event notifications are managed object based alarms stored in an alarm log. This feature is deemed to be inherent that a managed object based alarm comprises event code and data.

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38. As to claim 63, **Spencer** teaches the invention as claimed, additionally comprising storing the event code and event data in the packet template (col. 2, lines 36-62- Note that Spencer disclosed the event notifications are managed object based alarms stored in an alarm log. This feature is deemed to be inherent that a managed object based alarm comprises event code and data.

39. As to claim 64, **Spencer** teaches the invention as claimed, additionally comprising storing a timestamp and sequence number in the packet template (col. 7, lines 5-41, col. 14, lines 29-58).

40. As to claim 66, **Spencer** teaches the invention as claimed, additionally comprising determining one or more static fields of the packet template (col.6, line 59- col. 7, line 41).

41. Claims 40-42, 44, 53, 57, 59-60 have similar limitations as claims 34-36, 38, 46, and 54; therefore, they are rejected under the same rationale.

Claim Rejections - 35 USC § 103

42. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

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to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

43. Claims 37 and 43 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Spencer** U.S. Patent No. 6,253,243, in view of **Cromer et al.** (hereinafter Cromer) U.S. Patent No. 6,357,007.

44. As to claim 37, **Spencer** does not explicitly teach an ASIC (application specific integrated circuit). However, **Cromer** teaches wherein the integrated circuit comprises an ASIC (application specific integrated circuit) (abstract, figure 2, element 4). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teachings of **Spencer and Cromer** to include an ASIC because it would provide advance alerting/notifying of interruptions/events for monitoring network devices.

45. Claim 43 has similar limitations as claim 37; therefore, they are rejected under the same rationale.

46. Claims 49-50, 52, 58, 65, and 67 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Spencer** U.S. Patent No. 6,253,243, in view of **Matchefts et al.** (hereinafter Matchefts) U.S. Patent No. 6,330,600.

47. As to claim 49, **Spencer** does not explicitly teach the concept of polling. However, **Matchefts** teaches wherein the external event is polled from a device (col. 2, lines 18-34, col. 6, lines 4-45). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to modify the teachings of **Matchefts** to include the polling concept into the system as disclosed by **Spencer** because it will randomly check the status of network elements to provide and improve a extensive monitoring of network events.

48. As to claim 50, **Spencer** teaches the invention as claimed, wherein: the event processor additionally sends an event code and event data to the packet generator (col. 2, lines 36-62- Note that **Spencer** disclosed the event notifications are managed object based alarms stored in an alarm log. This feature is deemed to be inherent that a managed object based alarm comprise event code and data); and the packet generator generates a packet based on one of the at least one packet templates by: accessing the packet template in the memory (col. 6, lines 50-65, col. 7, line 42-col. 9, line 3); storing the event code and the event data in the packet template (col. 6, line 55-col. 7, line 41, col. 7, line 65-col. 9, line 3) and transmitting the packet template to a communication controller for transmission over a shared medium (figure 4, col. 3, lines 1-10, col. 6, lines 24-65). However, **Spencer** does not explicitly teach the checksum calculation and comparison. **Matchefts** teaches the packet template including a partial checksum (col. 6, lines 4-16, col. 7, lines 52-55); calculating a complete checksum based on the partial checksum, and based on the at least one static field (col. 7, lines

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48-65, col. 8, lines 55-67, col. 9, lines 1-6); storing the complete checksum in the packet template (col. 7, lines 48-65). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to modify the teachings of **Matchefts** to include the checksum calculation and comparison in the system of **Spencer** because it will verify if the complete transmission was received and prevent out-of-order sequencing.

49. As to claim 52, **Spencer** does not explicitly teach the invention as claimed; however, **Matchefts** teaches wherein the bus control module additionally receives a partial checksum from the CPU (col. 6, lines 4-16, lines 46-64, col. 7, lines 52-55). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to combine the teaching of **Spencer Matchefts** to have the same motivation as set forth in claim 50, supra.

50. As to claim 65, **Spencer** does not explicitly teach calculating and storing the complete checksum. However, **Matchefts** teaches calculating a complete checksum and storing the complete checksum in the packet template (col. 7, lines 48-65, col. 8, lines 55-67, col. 9, lines 1-6). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to modify the teachings of **Matchefts** to include the checksum calculation and comparison in the system of **Spencer** because it will verify if the complete transmission was received and

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prevent out-of-order sequencing and the complete checksum is important to verify if the data arrive intact.

51. As to claim 67, **Spencer** does not teach the concept of polling. However, **Matchefts** teaches wherein the indication of an event is generated in response to polling a device that does not have a normal status (col. 2, lines 18-34, col. 6, lines 4-45). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to modify the teachings of **Matchefts** to include the polling concept into the system as disclosed by **Spencer** because it will randomly check the status of network elements to provide and improve a extensive monitoring of network events.

52. Claim 58 has similar limitations as claim 50; therefore, they are rejected under the same rationale.

Conclusion

53. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see PTO-892 attached).

54. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Ha Nguyen, whose telephone number is (571) 272-3989. The examiner can normally be reached Monday through Friday from 8:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain T. Alam, can be reached at (571) 272-3978.

Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications.

Thu Ha Nguyen

March 30, 2005



HOSAIN ALAM
SUPERVISORY PATENT EXAMINER